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10/774,034

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EXAMINER

SANTIAGO CORDERO, MARIVELISSE

ART UNIT

PAPER NUMBER

2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/774,034	Applicant(s) HRASTAR, SCOTT E.	
	Examiner Marivelisse Santiago-Cordero	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948). | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The references cited in the Information Disclosure Statements (IDS) filed on 5/5/05, 9/6/05, and 11/29/05, have been considered.
2. The references cited in the Information Disclosure Statements (IDS) filed on 3/22/04 and 4/12/04, have been partially considered.

Regarding the IDS filed on 3/22/04, the non-considered documents (see crossed-out documents) were not submitted with the application and could not be found. Applicant is required to submit copies of these documents for consideration.

Regarding the IDS filed on 4/12/04, the non-considered U.S Patent documents (see crossed-out documents) were either repeated in a further submitted IDS or the inputted number is wrong; the non-considered foreign documents and Other Documents (see crossed-out documents) were not submitted with the application and could not be found. Applicant is required to submit copies of these documents for consideration.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (page 3, lines 13 and 24; page 4, line 30; page 6, line 3). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

5. The disclosure is objected to because of the following informalities: the term --of-- appears to be missing from the sentence after the term "one" (page 6, line 22); the reference number "210" (page 11, line 16) should be replaced with --210A--; the phrase "and 2E respectively" (page 13, line 11) should be deleted; and the term "patters" (page 48, line 25) should be replaced with --patterns--.

Appropriate correction is required.

Claim Objections

6. Claim 20 is objected to because of the following informalities: the term "readible" should be replaced with --readable--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 20, it is not clear how a "paper media", as defined in the specification, (page 45, lines 6-18) can be considered a "computer readable media" as claimed.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 20 reads on "printed matter" due to the recited definitions of "computer readable media" on page 45, lines 6-18 of the instant specification and are thus considered to be non-statutory. See MPEP 706.03(A).

Absent an explicit disclosure to the contrary, a "computer readable medium" encoded with a computer program is normally considered to define structural and functional interrelationships between the computer program and the computer software and hardware components which permit the computer's program functionality to be realized and is thus normally statutory.

The examiner suggests striking the mention of non-statutory subject matter from the specification.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Challener et al. (hereinafter “Challener”; Pub. No.: US 2003/0186679).

Regarding claim 19, Challener discloses a method for tracking location of a wireless device, the method comprising the steps of:

- (a) detecting an unauthorized wireless device (Fig. 3; paragraphs [0026]-[0027]);
- (b) adding an indicator associated with the detected unauthorized wireless device to a list of wireless devices (Fig. 3; paragraphs [0026]-[0027])
- (c) selecting a wireless device for tracking based upon the list of wireless devices (Fig. 3; paragraphs [0026]-[0027]);
- (d) receiving data from one or more wireless receivers (paragraphs [0026]-[0029]; note the workstations, wireless access points, and monitoring stations)
- (e) calculating a position of the selected wireless device based upon the received data (Fig. 3; paragraphs [0026]-[0029])
- (f) outputting the calculated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted;

(g) repeating steps (a) and (b) upon occurrence of an event or at periodic intervals (paragraphs [0025] and [0030]);

(h) repeating steps (c) through (f) upon occurrence of an event or at periodic intervals (paragraphs [0025] and [0030]).

Regarding claim 20, Challenger discloses one or more computer readable media storing instruction that upon execution by a system processor cause the system processor to perform the method of claim 19 (Fig. 4; paragraph [0031]; see rationale as previously discussed above for claim 19).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-12, 15-16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challenger in view of and Juitt et al. (hereinafter "Juitt" (Patent No.: US 7,042,988).

Regarding claim 1, Challenger discloses a system for tracking location of a wireless device, the system comprising:

a system data store (paragraph [0027]; note the server) capable of storing indicators of one or more wireless devices to track (paragraph [0027]);

a set of one or more wireless receivers (paragraphs [0026]-[0029]; note the workstations, wireless access points, and monitoring stations);

a system processor in communication with the system data store and the set of wireless receivers (paragraphs [0026]-[0028]), wherein the system processor comprises one or more processing elements programmed or adapted to perform the steps comprising of:

(a) identifying a wireless device for tracking based upon data from the system data store (Fig. 3; paragraph [0027]);

(b) receiving data from a subset of the set of wireless receivers (paragraphs [0026]-[0029]; note the workstations, monitoring stations, and wireless access point);

(c) storing the received data in the system data store (paragraphs [0027]-[0029]);

(d) calculating the position of the identified wireless device based upon the stored data (paragraphs [0028]-[0029]); and

(e) outputting the calculated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted).

Challener fail to specifically disclose the system data store capable of storing one or more tracking criteria. Note, however, that Challener discloses monitoring during normal business hours (paragraph [0025]); thus, suggesting tracking criteria.

Nonetheless, in the same field of endeavor, Juitt discloses the system data store capable of storing one or more tracking criteria (col. 4, lines 15-21).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to store in the system data store of Challener one or more tracking criteria as suggested by Juitt for the advantages of detecting unauthorized devices by monitoring network traffic and its characteristics (Juitt: col. 4, lines 15-21)

Regarding claim 2, in the obvious combination, Juitt discloses wherein one or more tracking criteria are of a type selected from the group consisting of time, traffic level, threat level, protocol characteristics, usage characteristics or combinations thereof (col. 4, lines 15-21). Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to select the one or more tracking criteria from the group consisting of time, traffic level, threat level, protocol characteristics, usage characteristics or combinations thereof as suggested by Juitt for the advantages of detecting unauthorized devices by monitoring network traffic and its characteristics (Juitt: col. 4, lines 15-21), avoids imposing an excessive burden, and the for quicker identification.

Regarding claim 3, in the obvious combination, Juitt discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of dynamically determining one or more tracking criteria (col. 4, lines 15-21; note that by monitoring the network traffic, the one or more tracking criteria is dynamically determined). Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to dynamically determine one or more tracking criteria as suggested by Juitt for the advantages of detecting unauthorized devices by monitoring network traffic and its characteristics (Juitt: col. 4, lines 15-21), avoids imposing an excessive burden, and the for quicker identification.

Regarding claim 4, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) repeat steps (a) through (e) continuously (paragraph [0025]; note that the steps may be performed periodically as distinguished from continuously; however, it is not

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excluding it from being continuously performed. Thus, Challenger suggests that the steps (a) through (e) can be performed continuously).

Regarding claim 5, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) repeat steps (a) through (e) periodically (paragraph [0025]).

Regarding claim 6, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (g) modifying the period of repetition of step (f) (paragraph [0030]), but fail to specifically disclose based upon one or more tracking criteria. However, Challenger does disclose monitoring once an hour or once a day during normal business hours so as to avoid imposing an excessive burden on other uses of the devices; thus suggesting based upon one or more tracking criteria. Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to (g) modifying the period of repetition of step (f) based upon one or more tracking criteria as suggested for the advantages of avoiding imposing an excessive burden on other uses of the devices (Challenger: paragraph [0030]).

Regarding claim 7, the limitations are rejected with the same grounds and for the same reasons stated above for claim 2.

Regarding claim 8, in the obvious combination, Challenger discloses wherein the programming or adaptation to identify the wireless device includes programming or adaptation to perform the step comprising of selecting the identified wireless device based upon indicators of one or more wireless devices in the system data store (Fig. 3; paragraph [0027]).

Regarding claim 9, in the obvious combination, Challenger discloses wherein the one or more processing elements are further programmed or adapted to perform the step comprising of (f) detecting an unauthorized wireless device (Fig. 3; paragraph [0027]) and (g) storing an indicator of the unauthorized wireless device in the system data store (Fig. 3, last step; paragraph [0027]).

Regarding claim 10, in the obvious combination, Challenger discloses wherein the identified wireless device is the unauthorized wireless device (Fig. 3; paragraph [0027]).

Regarding claim 11, in the obvious combination, Challenger discloses wherein the programming or adaptation to identify the wireless device includes further programming or adaptation to perform the step comprising of retrieving indicators of one or more wireless devices from the system data store (Fig. 3; paragraph [0027]).

Regarding claim 12, in the obvious combination, Challenger discloses wherein the programming or adaptation to calculate the position of the identified wireless device includes programming or adaptation to perform the steps comprising of:

- (i) sensing the identified wireless device (paragraph [0026]);
- (ii) storing RF signal characteristics in the system data store based upon the sensing (Challenger: paragraph [0027]); and
- (iii) dynamically selecting one or more additional sensors to improve tracking performance (paragraphs [0026]-[0029]).

Regarding claim 15, in the obvious combination, Challenger discloses wherein the calculated position is output to a user or to a computer system (Fig. 3; last step; note that the

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calculated position is retrieved by IT management; thus outputted to a user or to a computer system).

Regarding claim 16, in the obvious combination, Challenger discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) storing the calculated position in the system data store (Fig. 3, last step; note the “stored determined location and identity”).

Regarding claim 21, Challenger discloses a system for tracking location of a wireless device, the system comprising:

storing means for storing one or more tracking criteria and indicators of one or more wireless devices to track (paragraph [0027]);

rogue detection means for receiving scan data from one or more wireless receivers (paragraphs [0026]-[0029]), for detecting an unauthorized wireless device based upon the received scan data (paragraphs [0026]-[0029]) and for storing an indicator of the detected unauthorized wireless device (Fig. 3; paragraphs [0026]-[0029]); and

position determining means for selecting a wireless device to track from the indicators in the storing means (Fig. 3; paragraphs [0026]-[0029]), receiving scan data from one or more wireless receivers (Fig. 3; paragraphs [0026]-[0029]), estimating the position of the selected wireless device based upon received scan data (Fig. 3; paragraphs [0026]-[0029]) and outputting the estimated position (Fig. 3, last step; note that the stored determined location and identity are retrieved by IT management; thus, outputted).

Challener fail to specifically disclose the storing means for storing one or more tracking criteria. Note, however, that Challener discloses monitoring during normal business hours (paragraph [0025]); thus, suggesting tracking criteria.

Nonetheless, in the same field of endeavor, Juitt discloses the storing means for storing one or more tracking criteria (col. 4, lines 15-21).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to store in the storing means of Challener one or more tracking criteria as suggested by Juitt for the advantages of detecting unauthorized devices by monitoring network traffic and its characteristics (Juitt: col. 4, lines 15-21).

15. Claims 13-14 and 17-18 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Challener in combination with Juitt, as applied to claim 1 above, and further in view of Won et al. (hereinafter "Won"; Patent No.: US 6,754,488).

Regarding claim 13, Challener in combination with Juitt disclose the method of claim 1 (see above), but fail to specifically disclose wherein the programming or adaptation to output the calculated position includes programming or adaptation to perform the steps comprising of formatting the calculated position according to one or more output preferences. Note, however, that at the time of invention by application, output information was notoriously well known in the art to be formatted in order to meet/satisfy the needs/requirements of the receiver.

Nonetheless, in the same field of endeavor, Won discloses wherein the programming or adaptation to output the calculated position includes programming or adaptation to perform the steps comprising of formatting the calculated position according to one or more output

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preferences (col. 5, lines 23-26; col. 6, lines 36-39; note that visual or audible notification is outputted; thus, the output position is inherently formatted).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to format the calculated position of Challenger in combination with Juitt according to one or more output preferences as suggested by Won for the advantages of properly outputting the information and/or meeting the requirements of a receiver and is user-friendlier.

Regarding claim 14, in the obvious combination, Won discloses wherein the calculated position for output is formatted as an e-mail, a web page, a facsimile, a graphic, an XML page, an SNMP message, a page, or combinations thereof (col. 5, lines 23-26; col. 6, lines 36-39). Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to format the calculated position of Challenger in combination with Juitt as an e-mail, a web page, a facsimile, a graphic, an XML page, an SNMP message, a page, or combinations thereof as suggested by Won for the advantages of distributing the information in widely available applications that are user-friendly and easily adoptable to the users.

Regarding claim 17, Challenger in combination with Juitt disclose the method of claim 1 (see above), but fail to specifically disclose wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) removing an indicator of a wireless device from the system data store.

However, in the same field of endeavor, Won discloses wherein the one or more processing elements of the system processor are further programmed or adapted to perform the step comprising of (f) removing an indicator of a wireless device from the system data store (col. 5, lines 44-45).

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Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to remove the indicator of the wireless device from the system data store of Challenger in combination with Juitt as suggested by Won for the advantages of keeping the most-up-to date information and avoiding filling the data store with duplicate, redundant, and/or unnecessary information.

Regarding claim 18, in the obvious combination, Won discloses wherein indicator removal is based upon manual deletion, time deletion, or a change in device security status from unauthorized to authorized (col. 5, lines 44-45).

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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